

UNITED STATES COURT OF MILITARY COMMISSION REVIEW
before F. Williams, D. Conn, and C. Thompson

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)	
)	MOTION TO ATTACH
)	
)	CMCR CASE NO. 09-001
)	
UNITED STATES)	Tried at Guantanamo, Cuba on
	)	7 May 2008,
	)	15 August 2008,
Appellee	)	24 September 2008,
	)	27 October – 3 November 2008
v.)	
	)	Before a Military Commission convened by
ALI HAMZA AHMAD SULIMAN	)	Hon. Susan Crawford
AL BAHLUL)	
)	
Appellant.	)	Presiding Military Judge
	)	Colonel Peter Brownback, USA (Ret.)
	)	Colonel Ronald Gregory, USAF
)	
)	
	)	DATE: 19 October 2009
)	
)	
)	

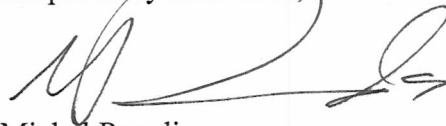
**TO THE HONORABLE, THE JUDGES OF THE COURT OF MILITARY
COMMISSION REVIEW**

COMES NOW Appellant and respectfully requests that this Court attach the following document to Appellant's Brief in Opposition to Appellee's Motion for a Stay filed on 15 October 2009:

**Email Exchange between CAPT Edward White and Adam Thurschwell on 29
September 2009**

This document is necessary for this Court's consideration of the factual background of Appellee's Motion for a Stay. It is submitted to corroborate the Procedural History of Appellant's brief, much of which recounts telephonic conversations for which there is no written record. Appellee has been consulted and objects to this motion on relevance grounds stating that CAPT White's "intentions are [not] relevant to the merits of the issue."

Respectfully submitted,

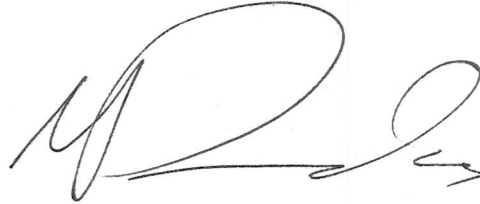
A handwritten signature in black ink, appearing to read 'Michel Paradis', with a stylized flourish at the end.

Michel Paradis
MAJ Todd E. Pierce, USAR
Capt. Scott Medlyn, USAF
Appellate Defense Counsel
1099 14th Street NW, Suite 2000E
Washington, DC 20005
1.202.761.0631
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was sent via e-mail to CAPT Edward White on the 19th day of October 2009.

Dated: 19 October 2009

A handwritten signature in black ink, appearing to read 'MP', with a large loop and a trailing flourish.

Mr. Michel Paradis
Appellate Defense Counsel
1099 14th Street NW, Suite 2000E
Washington, DC 20005
1.202.761.0631
michel.paradis@osd.mil

Thurschwell, Adam Mr OSD OMC Defense

From: White, Edward S CAPT OSD OMC Prosecution
Sent: Tuesday, September 29, 2009 2:39 PM
To: Thurschwell, Adam Mr OSD OMC Defense
Subject: RE: New military commission stay (U)
Signed By: [REDACTED]

UNCLASSIFIED

Adam,

I called earlier today and left a message for you, but since I haven't heard back I thought I'd go ahead and send you an email.

When the Hamdan (and Bahlul) case first got sent to CMCR, we considered whether or not we needed to seek a stay under the Executive Order, and determined that we did not.

Towards the end of last week, however, we began to focus on whether it would be wise to seek to stay these cases pending action on the MCA reform legislation now pending in Congress. As you know, that legislation will, potentially, change the court of appeals from CMCR to CAAF, as well as potentially change the scope of review. It might, therefore, make sense to ask CMCR to suspend the briefing schedule in Hamdan until a revised MCA is enacted and we know what the new law actually says.

In Bahlul, since Mr. Paradis has already filed an opening brief, we intend to go ahead and complete the briefing (so as not to leave one side or the other with a tactical advantage), and then take stock of the situation and decide whether it makes sense to seek a stay at that time. By contrast, since no briefs have yet been filed in Hamdan, I was thinking it might make sense to go ahead and seek a stay in Hamdan now -- say until 16 November (the date we used in the trial courts earlier this month), or until some sooner date if the situation resolves itself sooner.

So, bottom line, I would appreciate knowing the Hamdan team's thoughts and position on this question. Would you be interested in a joint motion to stay?

v/r, Ed White

Edward S. White
CAPT, JAGC, USN
Chief, Appellate, Research & Training Section
Office of the Chief Prosecutor
DoD Office of Military Commissions
[REDACTED]

-----Original Message-----

From: Thurschwell, Adam Mr OSD OMC Defense
Sent: Friday, September 25, 2009 4:25 PM
To: White, Edward S CAPT OSD OMC Prosecution
Subject: RE: New military commission stay (U)

UNCLASSIFIED

Thanks Ed, hope you feel better --

Adam Thurschwell
General Counsel
Office of the Chief Defense Counsel
Office of Military Commissions
(703) 588-0437
Adam.Thurschwell@osd.mil

-----Original Message-----

From: White, Edward S CAPT OSD OMC Prosecution
Sent: Friday, September 25, 2009 4:24 PM
To: Thurschwell, Adam Mr OSD OMC Defense
Subject: Re: New military commission stay (U)

Adam,

Am at home sick today; will call you to discuss on Monday.

V/r, Ed White

From: Thurschwell, Adam Mr OSD OMC Defense
To: White, Edward S CAPT OSD OMC Prosecution
Sent: Fri Sep 25 16:08:07 2009
Subject: New military commission stay (U)

UNCLASSIFIED

Ed, wondering if you plan on making a request to stay proceedings as they've done in the Commissions -- assume not, but thought I'd get it from the horse's mouth, so to speak --

Thanks,
Adam

Adam Thurschwell
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